

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

BACKWARD CLASSES WELFARE DEPARTMENT – Appeal Petition filed by Kum Shaik Shalima Bhanu, D/o Shaik Mohd. Kasim, SGT, Mandal Parishad, Primary School (Urdu), Naidupalem, Kudchedu Mandal, Prakasam District against the Proceedings Rc.C4/532/2008, dt:21.10.2009 of the Collector and District Magistrate, Prakasam district – Appeal rejected – Orders – Issued.

BACKWARD CLASSES WELFRARE (C1) DEPARTMENT

G.O.Ms.No. 31

Dated: 1.11.2010

Read the following:

Ref:- 1) Proc.of the Collector & Dist. Magistrate, Prakasam,
Rc.C4/532/2008, dt:21.10.2009
2) Appeal petition filed by Kum Shaik Shalima Bhanu,dt:15.12.2009.
3) Government Memo No.5739/C1/2009, dt.31.12.2009.
dt.23.02.2010,dt.11.03.2010 & dt.13.04.2010.
4) From the Dy.Registrar, Institution of A.P.Lokayukta,
Hyderabad,Lr.DIS.No.823/2010/B1/LOK/984/2010,Dt.23.04.2010.
5) Government Memo No.5739/C1/2009, dt.13.04.2010.
6) From the Collector & District Magistrate, Prakasam,
Rc.C4/289/2010,dt.27-04-2010
7) Memo.No.5739/C1/2009,Dt. 11-6-2010
8) Memo.No.5739/C1/2009,Dt. 29-7-2010
9) Govt.Memo.No.5739/C1/2009, dated 9.8.2010.
10) Govt.Memo.No.5739/C1/2009, dated 9.8.2010.

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OR D E R:

The Collector&District Magistarte,Prakasam, received a complaint from the President, Noor Basha Muslims Welfare Sangham, Ongole, that some bogus BC candidates applied with bogus BC Caste Certificates in the DSC-2006, and referred certain names and Kum Shaik Shalima Bhanu, D/o Mohammed Khasim, R/o Karedu (V), Prakasam Dist., one among them suspected to be selected under BC list, even though she belongs to OC community.

2. The District Collector , Prakasam, has instructed to Executive Director, A.P. State Minorities Finance Corporation, Ongole (APSMFC) to enquire the issue and report. The Executive Director, APSMFC Ongole, has enquired and submitted his report as follows:

- The Dudekula caste under Muslims, being 65% of Dudekula are observing both Muslim and Hindu traditions and 35% are observing only Muslim traditions and they utilized the Surnames ‘Shake’ ‘Nagoor vali’ ‘Mastanvali’ ‘Khadar vali’ ‘Khasim vali’ as there name in common.

- As per information furnished by the Dist. Education Officer, the candidates selected under Category “b” Dudekula is 04 Muslims. The selection was done on the basis of caste certificates submitted by the candidates issued from the concerned Tahsildars.
- Out of them Syed Shahanz, is ‘Mehtar’ Muslim BC-A and the remaining three are Dudekula caste BC-B. 1) Shaik Mohammed Basha S/o Chand Vali, Alavalapadu village of J.Pangulur Mandal. 2) Shaik Salima Bhanu D/o Mohammed Khasim, Karedu Village, Ulavapadu Mandal 3) Syed Shahanz D/o Bude Saheb, Goka Raju Palem, Kandukur town and Mandal 4) Shaik Dilshad D/o Alla Baksh, Islampeta, Ongole town not selected in DSc-2006.

3. Regarding Shaik Salima Banu, D/o Mohammad Khasim, Karedu village, the Executive Director, APSMFC, Ongole, has reported that under BC-B her father is working as Secondary Grade Teacher at Karedu Village. He produced his caste certificate, and Service Register in which his caste was mentioned as ‘Dudekula’. As per school records of the individual, and her father himself is, Dudekula, and suggested that she is Dudekula, and her caste certificate is correct.

4. The matter was referred to the DLSC. The individual attended before the D.L.S.C. on 22.07.2008, for enquiry, and her statement was recorded. She stated that, she was resident of Karedu village of Ulavapadu Mandal, selected as Urdu teacher in DSc-2006 selections, and posted at Urdu School, Pamuru. Her grand father hails from Pakala village of Singarayakonda Mandal. Her father and younger father shifted to Alluru village of Kothapatnam Mandal .Later her father resided at Karedu village and settled there. Her father had love marriage with Shaik Parveen and she does not know the details of maternal relations. She studied from 1st to 8th Class at Karedu village, 9th and 10th at Z.P. High School, Rapuru village of Nellore Dist, and Intermediate at MSR Junior College, Kandukur. Her father is working as Teacher at Karedu village. She obtained ‘Dudekula’ caste certificate dt.01.05.2004, from Mandal Revenue Officer, Ulavapadu. In school records i.e. T.Cs also, her caste is mentioned as ‘Dudekula’. She prays Lord “Alla”, offered ‘Namaz’ and go to ‘Masid’. She does not know the death ceremony of ‘Dudekula’ caste people. Her younger fathers 1) Shaik Mohammad Fafi, 2) Shaik Galib Shaw, are residing at Alluru village of Kothapatnam Mandal, and they are illiterates. She also attended before the D.L.S.C. on 23.08.2008, and stated that her younger fathers, Sri Sk.Mohammad Rafi is working milk collection center, and Galib Shaw, is an auto driver . They married to ‘Dudekula’ caste women. Hence, she stated that, she belongs to ‘Dudekula’ caste and not a Muslim.

5. One of the petitioners Shaik Basheer Saheb, S/o Meera Saheb, resident of Ulavapadu village, and Mandal has attended before D.L.S.C. on 22.07.2008, and stated that he is working as President, Noor Basha (Dudekula) Muslim Welfare Sangham, Ulavapadu .He further stated that Shaik Salima Banu D/o Mohammad Khasim of Karedu village was selected as Urdu teacher in DSC-2006, under ‘Dudekula’ caste certificate, but she belongs to Muslim caste, and objected on behalf of the said sangham. Sri Shaik

Mohammad Khasim, father of Salima Banu is native of Pakala Village originally, and shifted to Alluru village of Kothapatnam Mandal. Later Shaik Mohammad Khasim settled at Karedu village 20 years ago, on his employment as teacher. He does not know about marriage, and parents of Sk. Mohammad Khasim. But he has one brother by name, Sk. Mohammad Rafi, who is residing in Kothapatnam Mandal. The M.R.O., Kothapatnam, has issued a certificate that Sri Shaik Mohammad Rafi, belongs to 'Muslim' caste. He further stated that, about 15 families belonging to 'Dudekula' caste, and about 100 families belonging to O.C. Muslim caste, are residing in Karedu village. Sk. Mohammad Khasim's family have no relations with Muslim's families. The traditions of Dudekula caste, and O.C. Muslims caste people have fewer differences. But they don't know the prayer 'Namaz' and go to Masjid, 30% of Dudekula caste people do not know Muslim's language. Finally, he stated that Shaik Salima Banu belongs to Muslim O.C., but not 'Dudekula' caste.

6. The Tahsildar, Ulavapadu, has reported that Mandal Revenue Inspector has enquired at Karedu village with village elders, father of Sk. Salima Banu, Dudekula caste people and V.R.O. The enquiry reveals that Shaik Mohammad Khasim came from Alluru village of Kothapatnam Mandal due to his employment. His father hails from Pakala village of Kothapatnam Mandal. Sri Sk. Mohammad Khasim's family celebrates Hindu and Muslim festivals, marriages, death ceremonies as per Muslim traditions. They don't know Urdu language properly. Sri Sk. Mohammad Khasim in 1985, and his brother Sk. Mohammad Rafi in 1995, have obtained 'Dudekula' caste certificates from Mandal Revenue Officer, Kothapatnam, on the recommendations of V.A.O. of Alluru village. His younger brother Sk. Galib Alishaw's school admission record mentioned his caste as 'Dudekula' BC-B. Sk. Mohammad Khasim, got employment under management quota, but not on the caste basis. In the above circumstances, the Tahsildar has further reported that Sk. Mohammad Khasim, has settled at Karedu village due to his employment only.

7. Sri Shaik Mohammad Khasim, S/o Imam Saheb, resident of Karedu village, who is father of the individual attended before the D.L.S.C. and stated that he is working as teacher residing at Karedu village since 25 years due to employment. His father and ancestors belong to 'Dudekula' caste. They adopted their caste profession such as cotton ginning, making of beds and pillows, weaving of Navvaru etc. His father suffered with T.B., and discontinued the said work due to ill health. There are 30 families of Dudekula caste living in Alluru village. In Alluru and Karedu villages, 'Dudekula caste families are not in the profession. His father Imam Saheb has performed marriages and death ceremonies to 'Dudekula' caste families. During the time of his teacher training at Battarhalli village in Karnataka State, one woman by name, Shaik Mastanbi running a mess, in that mess her grand daughter Shaik Parveen also was living with her. Sk. Parveen has no parents. After getting employment, he married to Shaik Parveen. She belongs to 'Dudekula' caste. He is born at Alluru village on 26.10.1963. He had studied from 1st to 5th class at Alluru village, Intermediate at C.S.R. Sarma College, Ongole, T.T.C. in Karnataka State. In his school admission records, his caste is mentioned as 'Dudekula'. Later he settled at Karedu village and obtained 'Dudekula' caste certificate

from Mandal Revenue Officer, Kothapatnam and entered his caste in his Service Register also. His two younger brothers, Mohammad Rafi and Galib Alishaw are also issued 'Dudekula' caste certificates by the Mandal Revenue Officer, Kothapatnam, basing on the Alluru village V.A.O's recommendations and their school records also mentioned their caste as 'Dudekula'. His daughter, Shaik Salima Banu also studied under "Dudekula" caste as per school records from 1st to Intermediate and DIET center. His daughter Shalima Banu has obtained temporary caste certificate No.2249/01, later permanent caste certificate dt.30.04.2004 issued by the Mandal Revenue Officer, Ulavapadu.

8. Sri Genem Kotaiah S/o Raghavulu and Jajula Yellamanda S/o Kotaiah by caste Yadava, of Alluru village attended before the D.L.S.C. and gave statement in favour of Shaik Shalima Banu. Her grandfather, Sri Shaik Imam Saheb was shifted from Kandukur village to Alluru village nearly 50 years ago. He told that his caste is "Dudekula" .He discontinued his caste profession (making of cotton beds and pillows) after he came to Alluru village and had his lively hood by doing agriculture labour and petty business. He married to the daughter of Galib Alishaw of Alluru village. Shaik Imam Saheb told them that they belong to 'Dudekula' caste. He has three sons; Sri Sk. Mohammad Ravi and Galib Alishaw are residing at Alluru village and his first son Sk. Mohammad Khasim is residing at Karedu village. Sri Shaik Imam Saheb has been attending the for death ceremonies of Dudekula caste people.

9. Sri Shaik Meera Saheb, S/o Nabi Saheb and Sri Palugulla Srinivasa Reddy S/o Oeera Reddt of Karedu village, attended on 04.11.2008 before the D.L.S.C. and gave statement in favour of Shaik Salima Banu. He came to know about Sk. Mohammad Khasim after his employment at Karedu village, that he belongs to 'Dudekula' caste. Sk Md. Khasim has constructed 'Janda chettu' at Karedu village. Sri P.Srinivasa Reddy had come to know about the caste of Sk. Md. Khasim through his colleagues. Shaik Salima Banu had studied 1st to 8th class at Karedu village, 9th and 10th class at Rapur village of Nellore Dist. Intermediate at Kandkur, T.T.C. at Guntur and get job under 'Dudekula' case.

10. The Tahsildar, Kothapatnam, has reported that the Mandal Revenue Inspector has enquired with village elders and V.R.O. and recorded their statements. The enquiry revealed that Sri Shaik Mohammad Rafi S/o Imam Saheb speak Urdu language, celebrate Ramjan, Moharam festivals, go to Masjid and followed Muslim traditions and customs. She further stated that taking into consideration of discrete and open enquiry at Alluru village and SSID record, Sri Shaik Mohammad Khasim and Mohammad Rafi , sons of Imam Saheb belong to Muslim community undoubtedly.

11. The Tahsildar, Singarayakonda has reported that Sri Shaik Jamal Saheb S/o Davulasaheb (who is younger grand father of Shaik Salima Banu) of Pakala village which is the native place of the ancestors of Sk. Salima Banu, of S. Konda Mandal, belongs to Muslim O.C. community as per SSID No.0856-0000-5016-5001.

12. The Deputy Superintendent of Police, CID, RCIU, Guntur, has reported that on verification of her caste particulars including her parents and her sister, the local enquiry also revealed that Shaik Salima Banu, and her fore fathers belong to 'Muslim' O.C. Community.

13. The individual, and her father attended before the D.L.S.C. on 22.7.08, 23.8.08, 4.11.08, 30.12.2008, 27.01.2009 and 13.03.2009, and submitted Photostat copies of School records, (self) T.C. dt.21.6.1999 and 24.6.2004, T.C. No.248052 dt.3.6.92 of her younger father, admission sheet of Sk. Galib Alishaw No.2047 dt.19.6.83, father's caste certificate dt.13.11.85, younger father Mohammad Rafi's caste certificate dt.4.10.95 issued by the Mandal Revenue Officer, Kothapatnam, and of her original caste certificate dt.31.10.2001, and 01.5.2004, issued by M.R.O., Ulavapadu Mandal, Service Register of her father, list of Dudekula caste families at Karedu village, and certificate dt.31.3.2004, from 'The A.P. Noor Basha Association, Prakasam District, Ulavapadu Mandal in support of her caste claim.

14. As per the statement of father of the alleged person, Shaik Mohammad Khasim S/o Imam Saheb came from Alluru village of Kothapatnam Mandal to Karedu village of Ulavapadu Mandal due to his employment about 25 years ago. The villagers of Karedu village has stated that they don't know the exact caste of Sk. Mohammad Khasim. As per his statement, his wife 'Parveen' has no parents, living with her grand mother and she belongs to 'Dudekula' caste. Sri Shaik Mohammad Khasim, and his brothers or his father never did their caste profession (i.e. Cotton ginning, making of beds, pillows etc.) neither at Alluru or Pakala villages. Sri Shaik Mohammed Khasim has stated that his family is following the customs and traditions of O.C. Muslims in the marriages, perform festivals, death ceremony etc.

15. The Collector & District Magistrate, Prakasam, described the occupation and customs of Dudekula as follows:

a) DUDEKULA : Most of this class of Muslims are converts from lower rants. They are also known as Ladaf, Pinjari and Noorbash. The traditional occupation was cotton ginning, making of beds, pillows, nawar weaving etc. The cotton mills have adversely affected their profession and became economically poor. All the members in the family women and children will have to work through out the day to make both ends meet, and they cannot devote any time for education. Though they generally follow Muslim traditions, they observe Hindu traditions also in some respects. They are treated as a separate class even by the Muslims and they are not allowed to make alliance with the other Muslims. They are looked down low in Society, both by the Muslims and Hindus.

b) Certain occupations have come to be regarded as inferior even among the Muslims and today there are a few district classes among Muslims who are suffering from social inferiority due to occupation and poverty. Social backwardness among the Muslims has to be determined with reference to their hereditary occupation and poverty and without reference to caste.

16. The D.L.S.C. has observed that, the alleged person, Shaik Salima Banu, who selected as S.G.T. Urdu teacher, in D.Sc-2006, all the school admission records, and Transfer certificates of her, and his father, younger fathers are fabricated, and also depend on one to another as precedent. The committee has not believed the statements of villagers of Alluru and Karedu villages, because their family shifted from Pakala village to Alluru, and there to Karedu village, and they don't know the customs and traditions of 'Dudekula' caste people. The reports of Tahsildars, Kothapathnam and Singarayakonda were taken into account, that the discrete and open enquiry and report of V.R.O. Alluru village and SSID record, revealed that Sri Shaik Mohammad Khasim and Mohammad Rafi sons of Imam Saheb are belong to Muslim community undoubtedly, and the Tahsildar, Sinarayakonda has reported that, Sri Shaik Jamal Saheb S/o Davulasaheb (who is younger grand father of Shaik Salima Banu) of Pakala village which is the native place of the ancestors of Sk. Salima Banu, of S.Konda Mandal, belongs to Muslim O.C. community as per SSID No.0856-0000-5016-5001 and letter from the Secretary, Noor Basha Dudekula Sangham, Pakala village of S.Konda Mandal. Sri Shaik Mohammad Khasim has failed to prove his caste occupation before the Committee and it is very important aspect to determine his caste. The D.L.S.C. has resolved and recommended for cancellation of 'Dudekula' B.C.-B caste certificate dated 31.10.2001 and dt.01.05.2004 which is obtained by furnishing false information and filing of false statement issued to Shaik Salima Banu D/o Mohammad Khasim of Karedu village of Ulavapadu Mandal.

17. Hence, in the reference 1st read above, the Collector and District Magistrate, Prakasam District, Ongole, in exercise of the powers conferred under Section 5 (1) of A.P. (SC/ST/BC) regulation of issue of Community Certificates Act, 16 of 1993, and A.P. Scheduled Castes, Scheduled Tribes and Backward Classes Issue of Community, Nativity and Date of Birth Certificates Rules,1997 read with G.O.Ms.No.58, S.W. (J) Dept., dt.12.5.1997, had confirmed that Kum Shaik Shalima Banu D/o Mohammad Khasim, Karedu village have obtained fraudulently from the Mandal Revenue Officer, Ulavapadu as 'DUDEKULA' Backward Classes –B group caste certificate dt.31.10.2001, and permanent caste certificate dated.01.5.2004, and cancelled as she belongs to 'Muslim' O.C., but not to 'DUDEKULA' caste Backward Classes – B group.

18. Aggrieved by the orders of the Collector & District Magistrate, Prakasam., Kum Shaik Shalima Bhanu, D/o Shaik Mohd. Kasim, SGT, Mandal Parishad, Primary School (Urdu), Naidupalem, Kudichedu Mandal, Prakasam District, has filed an Appeal petition before the Government under Rule 11 of the AP SCs,STs & BCs Issue of the community, Nativity & date of Birth Certificate Rules,1977, and requested to suspend the orders passed by the District Collector, Prakasam District, pending disposal of the appeal petition and pass such other suitable order or orders in the circumstances of the case.

19. The Appeal Petition filed by Kum Shaik Shalima Bhanu, D/o Shaik Mohd. Kasim, SGT, Mandal Parishad, Primary School (Urdu), Naidupalem, Kudichedu Mandal, Prakasam District was taken on file of the Government, and called for the records from the Collector & District Magistrate, Prakasam in the reference 3rd & 5th read above.

20. In the reference 6th read above, the Collector & District Magistrate, Prakasam has furnished the records along with Para-wise remarks on the appeal petition.

21. The applicant in his appeal petition has submitted the following grounds in support to his caste claim:-

a) On the basis of the complaint the District Collector, Prakasam has directed the Executive Director, A.P. State Minorities Finance Corporation, Ongole, Prakasam Dist., to enquire into the matter and submit a report. The Executive Director, Ongole, conducted a detailed enquiry, and submitted a report in detail in respect of 4 candidates. As far as the appellant is concerned he enquired the appellant's father Mr. Shaik Mohd. Kasim, who is working as a Secondary Grade Teacher in Karedu village. The appellant's father produced his caste certificate along with Service Register. In his Service Register his caste was written as Dudekula caste. In addition to that the appellant also submitted her Transfer Certificates from 5th class to Intermediate which clearly proves that she belongs to Dudekula caste. In view of the clear evidence that the appellant's father is Dudekula, and appellant's school records also shows her caste as Dudekula, the Executive Director, has said that the appellant is Dudekula, and her caste certificate is correct.

b) In the penultimate para of the order for coming to the conclusion the District Collector Prakasam has referred certain statements which are not supported by any evidence on record. As already stated discreet enquiries cannot form part of the official record to take a decision against a person.

c) It is stated that the Secretary, Noor Basha Dudekula Sangham, Pakala Village, Singarayakonda Mandal, has written a letter intimating that the appellant does not belongs to Dudekula community. Inspite of the fact the District Collector Prakasam relied upon those documents they are neither referred in the references to the order nor supplied to the appellant. It is surprising to note that resolution of the District Level Scrutiny Committee which forms the basis of the order of the District Collector Prakasam was neither shown in the references nor supplied to the appellant. Hence the entire procedure is opposed to principles of natural justice.

d) As already stated that number of persons issued statements before the District Collector Prakasam, some are noted in the reference, and some are not referred to. But all form the part of record, and all the statements are enclosed herewith. The only statement against the appellant are statement of Mr. Shaik Basheer Saheb, report of the Tahsildar, Kothapatnam, mentioned above and the report of the DSP, Guntur. The above 3 reports are contrary to record and earlier statements.

e) The Government of A.P. in Gazettee Para 1 Extraordinary published on 7-7-2007, a notification issued by BC Welfare Dept., in it is stated that the surname 'Shaik' identified by the A.P. Commission of BC, as social, and educationally backward classes and included them in the list of separate category 'E'.

f) As stated above even though selection for the post of teacher was held in the year 2006, and the results were published on 15.10.2006, no complaint was made by Noor Basha Sangam till 2008. On the ground of latches also the collector Prakasam ought to have dismissed the complaint. As the appellant was selected in the examination held in 2006, and waited for appointment for 2 years, in view of the impugned order she will suffer irreparable loss.

22. In the references 7th to 10th read above, the Appeal Petitioner viz. Kum Shaik Shalima Bhanu, D/o Shaik Mohd. Kasim, SGT, Mandal Parishad, Primary School (Urdu), Naidupalem, Kudichedu Mandal, Prakasam District, was requested to attend the hearing on 19-06-2010, 04-08-2010, and before the Government in person or through his Counsel. The final hearing was conducted on 11-10-2010, in the chambers of Hon'ble M (BCW). But the appellant did not attend the hearing.

23. P.Noorbash/Dudekula Muslim Minority Welfare association, An organization of Muslim Backward classes who has also attended the hearing made a representation against to the claim of Kum.Shaik Shalima bhanu. They have also produced a documentary evidence in support of their claim i.e. Shaik shalima Bhanu does not belong to Dudekula Community. The evidence mainly includes:

- 1) Genealogy of forefathers .
- 2) Certificate issued by Mandal Secretary, Dudekula community, Sagarayakonda.
- 3) Certificates issued by the Tahsildars, Sagarayakonda, Kothapetnam.
- 4) Photo copy of the SSID book of Tahsildar, Ulavapadu.
- 5) List of Dudekula people presented by Dudekula Association, Ulavapadu Mandal.
- 6) Copy certified by the Dudekula Community People of Karedu village.

24. Government after careful examination of the records, and the enquiry reports furnished by the Collector & District magistrate, Prakasam, and the documentary evidence produced by the Caste associations, in exercise of the powers conferred under Section 7(2) of A.P. (SCs, STs and BCs) Regulation of issue of Community Certificates Act, 1993, and Rules, 1997, while upholding the orders issued in the Proceedings of the District Collector, Prakasam, in RC.C4/532/2008, dt: 21.10.2009, Govt., hereby reject the appeal petition of Kum Shaik Shalima Bhanu, D/o Shaik Mohd. Kasim, SGT, Mandal Parishad, Primary School (Urdu), Naidupalem, Kudichedu Mandal, Prakasam District.

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25. The original records (containing CF from 1-318 and NF from 1-29) received through the reference 6th read above are returned here with to the Collector & Dist. Magistrate, Prakasam District and the receipt of the same shall be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

HIRALAL SAMARIYA
PRINCIPAL SECRETARY TO GOVERNMENT

To:

1. Sri Kum Shaik Shalima Bhanu, D/o Shaik Mohd. Kasim, SGT, Mandal Parishad, Primary School (Urdu), Naidupalem, Kudichedu Mandal, Prakasam District.
2. Sri N.Nagoor Saheb, Nuthalapadu, Parcurur(M), Prakasam (Dist)-523169
3. The Collector & District Magistrate, Prakasam
4. The Commissioner, School Education, Hyderabad
5. The District Education Officer, Prakasam
6. The Director, B.C. Welfare, Hyderabad
7. The P.S. to M (BCW)

Copy to:

9. The Dy. Registrar, Institution of A.P. Lokayukta, Hyderabad (for favour of information)
SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER